ANNUAL REPORT

MANITOBA LABOUR BOARD

APRIL 1st, 1985 to MARCH 31st, 1986

The Honourable Pearl McGonigal
Lieutenant-Governor of the Province of Manitoba
Winnipeg, Manitoba

Madam:

I have the honour to respectfully submit to you the Report of The Manitoba Labour Board covering the period from April 1st, 1985 to March 31st, 1986.

Alvin Mackling
Minister of Labour

The Honourable Alvin Mackling
Minister of Labour
Winnipeg, Manitoba
R3C 0V8

Sir:

I have the privilege to respectfully submit to you the Report of The Manitoba Labour Board covering the period from April 1st, 1985 to March 31st, 1986.

Mary Eady
Deputy Minister
Manitoba Labour

The Honourable Alvin Mackling, Q.C.,
Minister of Labour,
343 Legislative Building,
Winnipeg, Manitoba.
R3C 0V8

Dear Mr. Mackling:

It is my pleasure to present to you the Annual Report of The Manitoba Labour Board, covering the period from April 1st, 1985 to March 31st, 1986.

Respectully Submitted,

J. M. P. Korpesho
Chairperson

Enclosures

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"A MESSAGE FROM THE CHAIRPERSON OF

THE MANITOBA LABOUR BOARD"

A year has gone by since the publication of the Board's first annual report, as required under the present Labour Relations Act.

The fiscal year 1985-86 saw improvements in both the administrative and adjudicative areas of the Board. A number of vacancies were filled during the period including the position of Counsel to the Board. Referrals under the expedited arbitration process are being filed with the Board in increasing numbers and I am pleased to report that a majority of these disputes are being resolved, with the assistance of the Conciliation Officers of the department performing the function of grievance mediators, prior to the formal hearing stage.

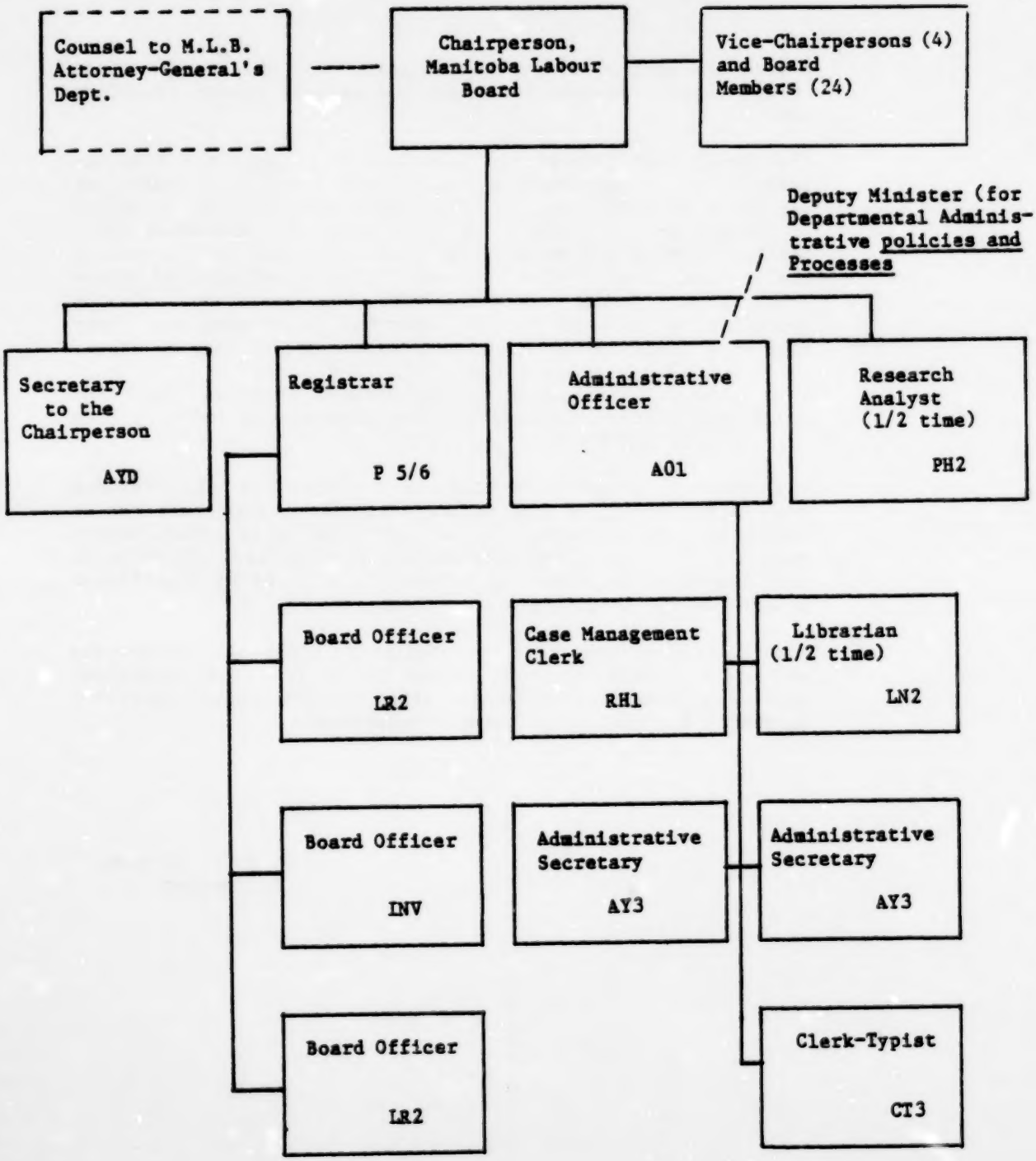
I am pleased to announce the appointment of Diane Jones and Joy Cooper to the positions of Vice-Chairpersons and wish them well in this endeavour.

The Board is actively working on a Compendium of Grievance Arbitration decisions and it is anticipated that this publication will be available in mid 1986. It is my understanding that this is the first publication of this kind which deals with Awards in Manitoba and I trust it will be of significant benefit to the Labour Relations Community.

I would like to take this opportunity to thank all the members and staff of the Manitoba Labour Board for their continued support and express my appreciation to the Labour Relations Community for their continuing co-operation.

J. M. P. Korpesho
Chairperson

MANITOBA LABOUR BOARD



SECTION I

STAFF AND BUDGET

During this reporting period, the Board employed a total of ten (10) persons on a full-time basis.

The Board has two (2) types of employees: Chairperson, Vice-Chairpersons and Board Members who are appointed by the Lieutenant Governor in Council, while the administrative, field and support staff are Civil Service appointees.

The total budget of the Manitoba Labour Board for the fiscal year was $504,600.

Administration

The Registrar is the official responsible for supervising the day-to-day field services of the Board. All applications filed with the Board pursuant to The Labour Relations Act, are initially processed through the Registrar's office. The Registrar determines the hearing dates, assures the effective and efficient processing of each application and communicates with all parties in all matters relating to the scheduling of hearings or specific problems in the processing of any applications.

The position of Administrative Officer was approved, but remained vacant during this reporting period. The incumbent would be responsible for the administrative support of the Board Office including fiscal control and accountability for operational expenditures, office systems, procedures development and management and for ensuring that departmental and government policies are implemented.

Field Services

The Board has a field staff consisting of three (3) Board Officers, who report directly to the Registrar. On a rotating schedule, two (2) Board Officers are assigned to deal with Labour Relations cases, while the third Board Officer is assigned to deal with Employment Standards/Payment of Wages related matters.

The Board Officers conduct investigations with respect to various applications filed with the Board. They perform a variety of functions including acting as Returning Officer in Labour Board conducted votes, attending Board Hearings, as well as assisting the Registrar in the processing of applications.

Administrative Services

The Board had an administrative support staff of five (5) clerical employees during this reporting period.

Part-time positions of Researcher and Librarian were filled. The Researcher is responsible for conducting studies and providing information on labour relations practices and policies in Manitoba. The Librarian is responsible for the development, on-going planning and administration of the library. The Librarian provides assistance to users and liaises with other libraries regarding industrial relations developments.

Case Monitoring

Because any delay in the handling of applications affects the Board's objective of effectively and efficiently disposing of all cases, a Case Monitoring System was developed.

The purpose of the Case Monitoring System is to provide the Manitoba Labour Board with an effective information base for assessing the efficiency of practices and procedures.

The objectives of the Case Monitoring System are to:

(1) Monitor the stage of processing for each application;

(2) Monitor time lines as defined in The Labour Relations Act or those standards for processing where the Act does not specify time lines;

(3) Prepare a bi-weekly status update on all applications;

(4) Report overdue cases and reasons for delay; and

(5) Assess the efficiencies of The Manitoba Labour Board's practices and procedures.

The standards developed for processing cases were based on specifications in The Manitoba Labour Relations Act, or on the number of days that were considered to have been reasonable, as established by the Management Information System (M.I.S.) Steering Committee.

The monitoring system was developed for use by senior management to provide vital statistical information and for use as a basis of assessment and recommendation regarding improvements and/or changes in the Board's practices and procedures. It is important to note that the reporting system was developed for internal use only.

During this reporting period, the Case Management System's first six-month "trial" report was issued covering the period from April 1st, 1985 to September 30th, 1985.

This report contained information on cases where delays occurred in processing and the reasons for those delays. As a result of the findings of this report, some changes were made to the specified time frames in order to reflect realistic goals. The next Case Management Reporting period ends on March 31st, 1986, wherein the revised time frames will be used.

To eliminate reporting delays resulting from manual tabulation, the Board is looking to an automated case monitoring system in the near future.

Manitoba Labour Board Library

The Manitoba Labour Board continued to build its library. The part-time professional librarian manages a small collection of texts and journals in the areas of industrial relations and labour law. The collection includes decisions of the Canada Labour Relations Board and decisions of other provincial boards including Ontario and Saskatchewan. The Board library has created an index of Arbitration Awards, all of which, as of 1985, are to be filed with the Board. This index provides access by arbitrator, company, grievor, subject and union. It should be noted that access to these materials is limited to the Board premises. Library hours were Mondays and Wednesdays 8:30 a.m. to 4:30 p.m. and Fridays 8:30 a.m. to noon, but will be changed to Monday through Friday 8:30 a.m. to noon, in 1987.

SECTION II

COUNSEL TO THE MANITOBA LABOUR BOARD

In September of 1985, the Attorney-General's Department assigned Mr. David Gisser as Counsel to the Board. Since that time, he has been actively involved in the development of the position of Counsel to the Board.

Counsel to the Board is responsible for providing legal assistance as required by the Board in matters such as legal research, opinions and the development and updating of the various forms used by the Board.

Counsel is also responsible for representing the Board's interests in proceeding before the Courts.

The Board is currently undertaking the publication of a Compendium of Grievance Arbitration decisions. In conjunction with the Board's researcher, Counsel is responsible for the headnoting of these decisions.

Future projects for Counsel to the Board include the summarization of all Board reasons for decision which hopefully will be available in 1987.

SECTION III

BOARD PUBLICATIONS

The Manitoba Labour Board publishes the following:

The Manitoba Labour Board Tri-Monthly Report - a tri-monthly publication of selected information and statistics on proceedings before the Board.

The Manitoba Labour Board is undertaking the publishing of the following:

A Guide to the Manitoba Labour Relations Act - a booklet explaining in laymen's terms the provisions of the Labour Relations Act. This is being undertaken in conjunction with the Department and will be available in the fall of 1986.

Arbitration Award Report - a report to be published on a tri-monthly basis, summarizing all arbitration awards rendered in the Province of Manitoba, either through the expedited arbitration process or the conventional process. It is anticipated that this publication will also be available in the fall of 1986.

A tri-monthly report of Board Reasons. This publication will provide the Labour Relations Community with a comprehensive data compilation of the Board's Reasons for Decision. We hoped that funds will be made available to have the material published in 1987.

SECTION IV

MEMBERS OF THE BOARD

In the year under review, the Board consisted of the following members:

John Korpesho - Chairperson

Mr. Korpesho was appointed Chairperson of the Board in 1983. Mr. Korpesho has been with the Board since 1973, during which time he held the positions of Board Officer, Registrar, and Vice-Chairperson/Registrar. He has served on a number of Labour Management committees and is a graduate of the University of Manitoba certificate program in Public Administration.

VICE-CHAIRPERSONS:

Leon Mitchell, Q.C.

Mr. Mitchell was appointed a Member and Vice-Chairperson of the Board in 1983 on a part-time basis; he was recently re-appointed to the position. Mr. Mitchell practiced law from 1956-1969 with the firm of Mitchell, Green and Minuk. Since then, he has held a variety of positions on a number of boards and committees including Deputy Chairman, Public Service Staff Relations Board. He is currently serving as counsel to the law firm of Taylor, Brazzell and McCaffrey.

S. Glenn Sigurdson, Q.C.

Mr. Sigurdson was first appointed Vice-Chairperson of the Board in 1980 on a part-time basis; he was recently re-appointed to the position. He holds a Bachelor of Arts (Honours) from the University of Manitoba and an L.L.B. from Osgoode Hall Law School (1972). Mr. Sigurdson is a partner in the firm of Taylor, Brazzell and McCaffrey. His practice emphasis is in civil litigation and labour relations. Mr. Sigurdson is active as an arbitrator in labour management disputes. As well, he is a member of many professional organizations.

In consultation with the various labour and management groups, two additional Vice-Chairpersons were appointed to the Board for a five year period commencing August 1st, 1985. They are as follows:

Diane Jones

Ms. Jones was appointed a member and Vice-Chairperson of the Labour Board in 1985. She holds a B.A. (Honours) from the University of Winnipeg and an L.L.B. from the University of Manitoba. Until 1984, Ms. Jones practiced law with the firm of Aikins, MacAulay and Thorvaldson.

Joy Margaret Kathleen Cooper

Ms. Cooper was appointed a member and Vice-Chairperson of the Manitoba Labour Board in 1985. She holds a B.A. (Honours), an M.A. and an L.L.B. from the University of Manitoba. Since 1982, Ms. Cooper has been with Walsh, Micay and Company, practicing family law exclusively.

BOARD MEMBERS:

A. Edward Stanton

Mr. Stanton was appointed to the Labour Board in 1985 as an Employer Representative. He graduated from the University of Manitoba with a Bachelor of Commerce (Honours) in 1949, and was employed by PRG Industries until his retirement in 1982. Mr. Stanton served in many capacities including General Manager of Branches, and has participated extensively in labour relations, having served on a number of joint labour/management study groups and government appointed committees on labour relations.

Bob Sparrow

Mr. Sparrow was first appointed to the Board as an Employer Representative in 1983. He brings with him an extensive knowledge of the hospitality industry and currently is the Vice President of the Manitoba Hotel Association.

Frank Van Ginkel

Mr. Van Ginkel was first appointed to the Board as an Employer Representative in 1978. He has been involved in the construction industry for the greater part of his career and currently is a principle with Trident Construction Ltd. Mr. Van Ginkel also has represented the Winnipeg Construction Association in a number of capacities.

Laurina Perfumo

Ms. Perfumo was appointed to the Board in 1985 as an Employer Representative. She has been actively involved in the hospitality industry and currently is the Assistant to the Executive Vice President of the Manitoba Hotel Association.

William F. Iverson

Mr. Iverson has served as an Employee Representative to the Board since 1970. He received his certificate in Masonry in 1948 and was employed by various companies until 1966. In 1967, Mr. Iverson was elected Business Manager for the Bricklayers Local and still holds the position. He has been extensively involved in labour organizations, boards, committees and associations, serving on the executive boards of the

Building Trades Council and the Manitoba Federation of Labour. In 1982, Mr. Iverson was appointed to the Advisory Council to the Minister of Employment and Immigration. He remained for three (3) years.

John E. Pullen

Mr. Pullen joined the Labour Board in 1978 as an Employee Representative. He has participated extensively in a variety of Labour Relations organizations and associations, serving as President, Manitoba Building Trades Council (1965-72) and President, Manitoba Federation of Labour (1984-85). At present, he is working with the Manitoba Government Employees Association as its Director of Operations.

Joe Freed

Mr. Freed was appointed to the Labour Board as an Employer Representative in 1985. At present, he is serving as Chairman of the Board for Freed and Freed of Canada Ltd., as well as, President of Cambrian Clothing Ltd. He has participated in a variety of organizations and associations including the Western Canadian Garment Manufacturers Association.

B. Atamanchuk

Mr. Atamanchuk was appointed to the Board in 1985 as a representative of employees. He became a Union Representative with the Retail Clerks Union in 1964 while employed by Canada Safeway. In 1967, he graduated from the Canadian Labour College. Mr. Atamanchuk is presently employed by the Manitoba Food and Commercial Workers Union as a Union Representative.

C. G. Marshall

Mr. Marshall has been an Employer Representative with the Labour Board since 1983. For 29 out of the 48 years he was employed with Western Grocers, a division of Westfair Foods, Mr. Marshall participated in collective agreement negotiations and allied Labour Relations affairs at all company branches throughout the prairie provinces.

Leo Desilets

Mr. Desilets was appointed to the Board in 1985 as an Employee Representative. Employed by Canadian Rogers (Western) Ltd. for a number of years, Mr. Desilets became active in the affairs of the Sheet Metal Workers International Association. In 1973, he became its full time Business Manager and Financial Secretary. As well as, serving as President of the Manitoba-Winnipeg Building and Construction Trades Council, Mr. Desilets has participated on a number of labour relations related boards and committees including the Labour Management Review Committee and the Economic Advisory Council.

Karen Graham

Mrs. Graham joined the Labour Board in 1985 as an Employee Representative. She became actively involved in labour relations in 1978 while employed by Olympic Paint and Sportswear. She is currently serving as an International Representative for the Amalgamated Clothing and Textile Workers. Mrs. Graham has participated extensively in labour related organizations including the Winnipeg Labour Council and the Winnipeg Union Label League. She has also served as a member of the Labour Law Review Committee on Technological Change and Plant Closures. In 1985, Mrs. Graham received a Labour Certificate from the University of Manitoba.

Maureen Morrison

Ms. Morrison joined the Labour Board in 1983 as an Employee Representative. She obtained her Bachelor of Arts from McGill University in 1969 and subsequently completed several courses towards a Certificate in Labour Relations. Since 1980, Ms. Morrison has been employed as a Staff Representative for the Canadian Union of Public Employees. She is a past President of C.U.P.E., Local 1543 (Manitoba Day Care Workers) and has also served as Chairperson, C.U.P.E. Equal Rights and Opportunities Committee.

Denis E. Sutton

Mr. Sutton joined the Labour Board in 1983 as an Employer Representative. He has had extensive training in business administration/personnel management, as well as, extensive experience in the field of labour relations in both the private and public sector. He currently holds the position of Director, Industrial Relations for Bristol Aerospace Ltd. Mr. Sutton has served as the Chairman for the Canadian Manufacturer's Association, Manitoba Branch Industrial Relations Committee and is an active member of many labour relations committees and associations.

Hugh McMeel

Mr. McMeel was first appointed to the Labour Board in 1983 as an Employee Representative. He has been involved in the Labour movement for the past 35 years as a member of the United Food and Commercial Workers International Union. For the last 12 years, Mr. McMeel has served as a full time Union Representative for the United Food and Commercial Workers participating extensively in negotiations and allied labour relations affairs.

Elizabeth M. Black

Mrs. Black was appointed to the Labour Board in 1985 as an Employer Representative. Mrs. Black holds a certificate in

Personnel and Industrial Relations (University of Manitoba, 1977), as well as, other courses relating to all aspects of business. She has been employed in the capacity of Personnel/ Human Resource Manager in a variety of businesses since 1970. Mrs. Black has been very active in the Human Resource Management Association for many years serving as President in 1980-81.

Anne Cyr

Mrs. Cyr was appointed to the Board in 1983 as an Employee Representative. She has held the position of Business Manager for the Service Employees International Union since 1979. Mrs. Cyr has served as President of the S.E.I.U., Local 308, Vice-President of the Canadian Western Council of the S.E.I.U. and Vice-Chairperson of the Manitoba Federation of Labour Occupational Health and Safety Committee. She has participated in many Labour sponsored training programs.

R. J. Henderson

One of the most senior board members. Mr. Henderson was appointed to the Labour Board in 1969 as an Employee Representative. He has served as Secretary to the Saskatoon, Saskatchewan Labour Council, Executive Officer and Chief Conciliation Officer for the Saskatchewan Labour Board, Saskatchewan Representative to the Canadian Labour Congress and Regional Director of Canadian Union of Public Employees. From 1966 to 1969, Mr. Henderson held the position of President of the Manitoba Federation of Labour.

Mr. Joseph P. West

Mr. West joined the Labour Board in 1983 as an Employer Representative. Prior to his retirement in 1984, he spent forty (40) years with Canada Packers, serving as both Industrial Relations Manager and Employee Relations Manager. As well, he has participated in a number of labour relations and professional associations. Mr. West has taught a variety of management, personnel and labour relations courses.

J. Art Coulter

Mr. Coulter has served on the Board as an Employee Representative since 1980. He has been involved in the Labour Movement for over 40 years in both elected and appointed positions. He has served as a Member of the Labour Management Review Committee Advisory Council to the Faculty of Administrative Studies (University of Manitoba) and as a Member of many governmental and community boards and commissions. He has also acted on many arbitration and conciliation boards.

W. J. Ptolemy

Mr. Ptolemy was first appointed to the Board as an Employer Representative in 1978. In 1964, Mr. Ptolemy left Western Builders Specialties Limited, where he had been employed as a Manager to pursue his own Construction Supply Business. Mr. Ptolemy retired from the business in 1979, and since then, he has represented the Winnipeg Construction Association on the Workplace, Safety and Health Council and the Labour Board. He has been a member of the Winnipeg Construction Association since 1938 and has served in a variety of capacities including Director at Large, Board of Directors.

Jack McCormick

Mr. McCormick was first appointed to the Board as an Employer Representative in 1977. Before his retirement, Mr. McCormick served as Senior Vice-President, the Canadian Aeronautical and Space Institute and the American Association of Metals.

D. E. Munn

Mr. Munn joined the Labour Board in 1978 as an Employer Representative. From 1952 until his retirement in 1976, Mr. Munn had been with the International Nickel Company serving in a variety of capacities including Superintendent, Personnel, Manitoba Division. At the time of his retirement, he was Regional Vice-President, Inco Limited Corporation, Winnipeg.

Brian Hunt

Mr. Hunt joined the Labour Board in 1983 as an Employee Representative. He has been a member of the United Steelworkers of America since 1969, serving as an Organizer and then Staff Representative. Mr. Hunt spent one year with the Canadian Labour Congress as a Staff Representative. He has actively participated and instructed courses in all areas of labour relations.

Nick Evans

Mr. Evans first joined the Labour Board as an Employee Representative in 1977. He has served as an Organizer for both the United Steelworkers of America and the Retail Wholesale and Department Store Union. In 1971, Mr. Evans was elected President of Local 6166 of the United Steelworkers of America and remained in the position until 1973. As well as, serving as full-time Co-Chairman of a Joint Union/Management Committee which implemented a co-operative wage study program at Inco Limited Corporation, Mr. Evans has been active in arbitration boards.

SECTION V

PART A

HIGHLIGHTS OF BOARD DECISIONS

DECISIONS RENDERED PURSUANT TO THE LABOUR RELATIONS ACT

INTERNATIONAL WOODWORKERS OF AMERICA LOCAL 1-324 AND FIN MAC LUMBER LIMITED, CARRYING ON BUSINESS UNDER THE FIRM NAME AND STYLE OF PERIMETER LUMBER AND A GROUP OF OBJECTING EMPLOYEES

Reasons for Decision rendered April 3, 1985.

The Applicant Union filed application to be certified as bargaining agent for a unit of employees of the Respondent employer.

A Petition of Objection was filed in opposition to the application for certification, supported by eleven individuals, the majority of which had wanted the Applicant to represent them as of the date of application. Evidence was heard by the Board therefore as to the circumstances of how the Petition of Objection originated.

In rendering its decision, the Board reviewed its previous decision in the Home Orderly Services case, at which time it stated that the date of Application for Certification was the paramount date for determining the wishes of the employees. As the Board's policy stated in the Home Orderly Services case was based on the former Section 31 (prior to the 1985 amendments), and in view of the fact that the Application for Certification before the Board was filed subsequent to January 1, 1985, the Board took the opportunity to consider the issues in light of new Sections 31, 36 and 38 of the Act.

In reviewing its policy with respect to ascertaining the paramount date for determining employee wishes as well as the significance of Petitions of Objection on Applications for Certification, the Board reviewed the provisions of Sections 36(1) and 36(2) of the Act. These sections contemplated that once the Board was satisfied that someone is a member of the union as of the date of application, the Board, pursuant to 36(1), must conclude that such membership reflected the employees' wishes to have the union represent them unless the Board was satisfied that the union misconducted itself as set out in subsection 36(4) and 39(2).

The Board indicated that pursuant to Section 38(2) of the Act, the Legislature intended to assign significance to employee Petitions of Objections, and further in light of Sections 31, 36 and 38 of the Act, it was the clear intent of the Legislature to establish the date of the filing of the Application for Certification as a paramount date for deter-

mining employee wishes. Therefore, once the Board has determined that Sections 36(1) and 36(2) have been satisfied, the wishes of employees determined as of the date of application filed can only be adversely affected by a Petition of Objection where the Board is satisfied of the presence of intimidation, fraud, etc. perpetrated by the union or any person acting on behalf of the union involved in the solicitation of union memberships. The Board pointed out that the strict onus of proof with respect to the voluntariness of the Petition of Objection would continue to be placed on the party or parties relying on the Petition of Objection, as indicated previously in the Home Orderly Services case.

In the application before it, the Board found no evidence of misconduct on the part of the union, and further with respect to the Petition of Objection, found that the latter did not represent a voluntary expression of the wishes of the employees. In the circumstances, the Board ordered certification for a unit of employees of the employer.

The Board also pointed out for the benefit of the labour relations community generally that Petitions of Objection that do not allege misconduct as referred to in Sections 36(4) and 38(2) may be dealt with by the Board without the conduct of a hearing.

RETAIL, WHOLESALE AND DEPARTMENT STORES UNION LOCAL 469 and WESTERN GROCERS, DIVISION OF WESTFAIR FOODS LTD. and A GROUP OF OBJECTING EMPLOYEES

Reasons for Decision rendered June 7, 1985.

The Applicant Union filed an application for certification as bargaining agent for a unit of employees, being all Winnipeg branch office employees of the Applicant employed in the City of Winnipeg, excluding retail counsellors and those excluded by the Act. The employer countered that the unit described in the application was inappropriate for collective bargaining and that in its opinion the most appropriate unit would be one which included all office employees at its corporate offices, but would be willing to carve out of the most appropriate unit a unit consisting of all wholesale office employees.

The Board conducted a hearing at which time it heard extensive testimony and argument as to what constituted an appropriate bargaining unit.

After reviewing case law and the provisions of Section 29(1) and 29(2) of The Labour Relations Act (prior to the 1985 amendments), the Board commented that it was not required to determine what unit was more or most appropriate for collective bargaining purposes, as long as it was determined by the Board that the unit applied for was appropriate for collective bargaining.

On the facts of the matter before it, the Board noted that the Winnipeg Branch office of the Applicant and its head office were located at and operated out of the same premises. However, the Board was satisfied that day-to-day activities of the Winnipeg Branch office employees were the responsibility of and were directed by the Winnipeg Branch manager and not the head office management. It was further satisfied on the facts that there was no significant day-to-day interchange of employees in the Winnipeg Branch office and the head office of the Applicant employer.

In view of those considerations, the Board determined the appropriate bargaining unit to be the Branch office employees, excluding sales personnel, retail counsellors, managers, assistant Branch managers and those excluded by the Act.

CANADA PACKERS INC. and UNITED FOOD AND COMMERCIAL WORKERS INTERNATIONAL UNION LOCAL 111.

Reasons for a decision delivered July 4, 1985.

The applicant employer brought an application pursuant to Section 121.2(5)(1) of The Labour Relations Act (as of January 1, 1985 amendments) seeking a determination by the Board as to whether a particular type of work by employees would directly facilitate the operation or business of another employer whose employees within Canada were lawfully on stike or locked out.

In dealing with this matter, the Board noted that its determination was based on an application of Section 12(1) of The Labour Relations Act, which essentially remained untouched as a result of the 1985 amendments to The Labour Relations Act. In reviewing previous jurisprudence interpreting the section, the Board commented that Section 12(1) was to be applied as a shield designed to insulate an employee from a disciplinary or other response to a matter of conscience so as to enable the employee to avoid acting or being seen to act in a matter contrary to the interest of other employees exercising the right to engage in a legal strike. It further noted that it was a right bestowed on an individual employee, not on a union. Conversely, it was not a sword to enable an employee or a group of employees to engage in a form of secondary pressure to assist in asserting economic force on the side of striking employees. That was not to suggest that the exercise of individual conscience as contemplated by Section 12 may not have some collateral consequences affecting the economic power relationship between the striking employees and their employer.

WINNIPEG FREE PRESS AND MEDIA UNION OF MANITOBA LOCAL M38 and ALL EMPLOYEES OF WINNIPEG FREE PRESS AND ITS ADVERTISING, MAIL ROOM, EDITORIAL AND CIRCULATION DEPARTMENT, REPRESENTED BY MEDIA UNION OF MANITOBA LOCAL M38.

Decision rendered October 18, 1985.

In a further application before it pursuant to Section 12(1) of The Labour Relations Act, concerning the handling of a particular advertisement, the Board took the opportunity to express its view that in enacting Section 12, the legislative intent was to allow an individual employee the right to refuse to handle products which would directly facilitate a struck employer, but was not intended at the same time to penalize or cause economic hardship or injury to innocent third parties. In balancing these considerations and keeping in mind that the spirit and intent of the Act is to maintain industrial peace and to further harmonious employer-employee relations, the Board concluded that the handling of the newspaper would not be work directly facilitating the operations of a struck employer. In its opinion, Section 12(1) meant that an employee may refuse to handle a particular advertisement as long as such advertisement remained an identifiable and separate product from that of the newspaper. However, an employee could not refuse to handle the newspaper after such an advertisement became an integral part of the newspaper or any part of it.

The Board also rules on the question of the contravention by Section 12 of the Canadian Charter of Rights and Freedoms, and held that said section was demonstrably justified in a free and democratic society and, therefore, did not violate the Charter of Rights.

CANADIAN UNION OF EDUCATIONAL WORKERS and THE UNIVERSITY OF MANITOBA

Reasons for decision rendered February 28, 1986.

The Board conducted a pre-hearing vote in March, 1985 regarding an Application for Certification filed by the Applicant Union. Some 1,144 people were identified as possibly falling within the bargaining unit applied for, of which 444 (some of whom were not on the original voter's list) cast ballots.

After hearings regarding the application for certification, a different unit from that applied for was found to be appropriate for collective bargaining. The parties submitted to the Board a formula to establish employee eligibility for determining the level of support enjoyed by the Applicant. After applying the formula, the Board found that support lay between 45% and 55% as of the date of application, thus calling for a representation vote. However, the Board also found that 144

people should have been allowed to vote in the pre-hearing vote.

The Board ordered a new vote to be held, as well as rescission of the pre-hearing vote as it was not representative of the wishes of the affected employees. The Board formulated its eligibility for the new vote on the basis of:

1. Those within the bargaining unit determined.

2. Those employees on the payroll up to and within two weeks of the vote to be taken.

It was a result of submissions from the parties that the Board found that of the 1,000 people who met criteria in March, 1985, only 350 to 421 remained employed as of the date of hearing. However, the unit still consisted of about 1,000 people. In light of these rare circumstances, the Board was, therefore, compelled to alter its criteria for voter eligibility from those employed on the date of application and who remained so until the vote to the dual criteria indicated above. In doing so, the Board indicated that it would not count the pre-hearing vote because it represented less than a majority of affected employees and had, as well, disenfranchised some 114 potential voters.

WESTFAIR FOODS LTD. and RETAIL, WHOLESALE AND DEPARTAMENT STORE UNION LOCAL 469 and CERTAIN GROUPS OF OBJECTING EMPLOYEES

Decision rendered October 18, 1985.

The Board had ordered certification of a particular unit of employees of the Applicant/Employer.

The Applicant filed an application pursuant to Section 121.2(3) of the amended Labour Relations Act, requesting that the Board review, vary or cancel its previous Certification Order on a variety of grounds, amongst which being:

1. That the Order was based on a hearing that denied natural justice, in that the Board questioned certain objecting employees in a way that gave the employer a reasonable apprehension of bias against those witnesses, which could have affected the weight given to their evidence.

2. The Board's Order was based in part on information obtained by the Chairperson that did not arise from the hearing, rather than being based solely on evidence adduced at the hearing.

As to the first issue, the Board disagreed with the Applicant, referring to its decisions in the Home Orderly Services and Fin Mac Lumber decisions where it enunciated its policy in dealing with petitions of objection. It had stated in those

cases that the strict onus of proof as to the voluntariness of petitions of objection would be placed on the party or parties relying on the petition of objection. The Board was satisfied in the case at hand that the questions asked by it were totally acceptable in attempting to satisfy itself as to the voluntariness of the petitions and were within the Board's jurisdiction.

As to the second issue, the Board in its decision on the review disagreed as to the information having been obtained outside of the hearing, the statement by the Chairman in fact being supportive of the position taken by the Applicant. In fact, the statement was not a consideration in the Board's Order.

Accordingly, the Board dismissed the application for review and confirmed its previously issued Certification Order.

MANITOBA FOOD & COMMERCIAL WORKERS, LOCAL 832 and EMPRESS FOODS LTD.

Decision rendered March 6, 1986.

Again at issue in this case was the question of whether the work of employees of Empress Foods Ltd. would directly facilitate the operation or business of another employer, namely Kent Flour Mills of Virden, Manitoba, whose employees were on strike. An application was brought by the M.F.C.W. pursuant to Section 125.2(5)(L) of The Labour Relations Act so that the Board could make a determination of the matter.

After reviewing the circumstances and evidence in the matter, and after further review and comparison of the circumstances in this case with those encountered in decisions reached by the Board in the Canada Packers, Seagrams, and Winnipeg Free Press decisions, the Board came to the conclusion that the whole wheat flour obtained by Empress from Kent became inseparable from the bakery product to which it gave rise. It considered that the inclusion of the whole wheat flour from Kent so tainted the product of Empress that the handling of the complete whole wheat product, the whole wheat product in process and the whole wheat flour was work within the contemplation of Section 12(1) of The Labour Relations Act. Accordingly, the Board ruled that the employees of Empress were entitled to exercise their rights pursuant to Section 12(1) of The Labour Relations Act.

KERRIGAN AND CUPE LOCAL 1550 and THE HEALTH SCIENCES CENTRE

Decision rendered March 13, 1986.

The Applicant employee filed an unfair labour practice application pursuant to Section 16 of The Labour Relations Act, seeking remedies against the Respondent Union pursuant to Section 22(4) of the Act.

In dealing with this application, the Board noted that in September, 1985, the Applicant Employee was terminated by the employer pursuant to which a grievance was filed by the employee. Investigations were conducted by representatives of the Respondent Union and meetings were convened and conducted by the union with the Applicant and the employer. The evidence also indicated that as a result of consultation with the Respondent Union's legal counsel, it was determined that arbitration would not be successful in the matter, and thus the union did not proceed with the grievance to arbitration.

The evidence further discloses that the Applicant took the matter to a general meeting of the union regarding consideration of the decision not to go to arbitration. At that time, positions were stated and a secret ballot conducted of those present, as a result of which arbitration was rejected by a majority.

In reviewing the circumstances of the case, the Board determined that the decision not to go to arbitration was made after careful consideration of the facts, consultation with counsel and presentation of the merits of the matter to the membership. The Board therefore concluded that the bargaining agent had acted responsibly and took reasonable care to represent the interest of the Applicant, and therefore dismissed the application for a remedy for an unfair labour practice.

PART B

DECISIONS RENDERED PURSUANT TO THE EMPLOYMENT STANDARDS RELATED LEGISLATION

KING'S MOTEL (WINNIPEG) LTD., CARRYING ON BUSINESS UNDER THE TRADE NAME AND STYLE OF RAMADA INN and SAMUEL

Decision rendered June 25, 1985.

In this case, the Board considered a claim for overtime pay for 1,434 hours worked over a period of nearly 3 years.

The employer countered in its argument that the salary and bonuses to be paid to the employee, agreed upon by both parties, included payment for all hours to be worked.

In dismissing the former employee's claim, the Board found that the employee had agreed to work in excess of the normal weekly working hours in consideration of the salary received. The Board further held that the rate of wages could not be accurately calculated in the absence of reliable records.

Therefore, there was no evidence before the Board to support the claim by the former employee for overtime wages.

RURAL MUNICIPALITY OF EAST ST. PAUL and HETZEL

Decision rendered July 16, 1985.

An employee of the Municipality had operated heavy equipment from time to time throughout his period of casual employment. It was the position of the employee that he should be paid at a wage rate specified in The Construction Industry Wages Act, being a rate higher than that at which he was actually paid. The Director of Employment Standards having found in his favour, the matter was referred to the Board for its determination.

In reviewing the matter, the Board concluded that The Construction Industry Wages Act did not apply to the employee, such legislation applying only to the construction industry. The Municipality, insofar as it could be characterized as an industry, could not be said to be within the public service industry. The Board looked to the provisions of the regulations under The Construction Industry Wages Act and The Municipal Act for support of its views and found in any event that the construction activities of the Municipality were of an incidental nature to its overall activities. As such, the maintenance and repair work to the road, land and premises owned by the Municipality would fall within the specific exemptions set out in Section 3 of The Construction Industry Wages Act. Accordingly, the Board dismissed the former employee's claim for wages.

IZABELLE'S PLACE LTD. and McDONALD

Decision rendered October 10, 1985.

Pursuant to an order and referral by the Director of Employment Standards to the Manitoba Labour Board, an issue arose as to whether the employer had satisfied the requirements of Section 35(3) and 35(4) of The Employment Standards Act relative to the establishment of a "no notice policy" regarding termination of employment.

On the facts of the case before it, the Board found that although a notice regarding termination practices of the employer was posted in the basement, it was satisfied that the employee had not been apprised of its existence. In addition, the Board found that the employer had not complied with the provisions of the Act requiring notification in writing to the employee of the terms of the established practice.

Accordingly, the Board confirmed the Order made by the Director of Employment Standards regarding payment of wages to the employee.

FOUR SEASONS ELECTRICAL, MECHANICAL CONTRACTORS LTD. and PARK

Reasons for decision rendered November 29, 1985.

A former employee employed as a plumber/steamfitter filed a claim with the Director of Employment Standards alleging that he had not received all wages, vacation wages and general holiday wages owing to him upon termination of his employment. Pursuant to Section 8(3) of The Payment of Wages Act, the Director of Employment Standards ordered that the sum of $2,658.47 be paid for wages owing to the former employee.

The matter having been referred to the Manitoba Labour Board for its consideration, the employer argued that the work was done within the service and maintenance field and was not covered by the provisions of The Construction Industry Wages Act.

The Board held that the work done by the employee relating to residential construction was work encompassed by The Construction Industry Wages Act, as was the work that he performed in connection with commercial construction. However, the Board further held that the employee should have been aware of the applicable rates of pay and should not have waited until his employment was terminated to file a complaint. The Board thus determined that the Order for Wages should be limited to the last 30 days of his employment with the employer.

It is to be noted that leave to appeal the Board's decision was granted by the Manitoba Court of Appeal, the appeal to come on for hearing in the Fall of 1986.

65683 MANITOBA LTD, CARRYING ON BUSINESS UNDER THE TRADE NAME AND STYLE OF SKINNERS WET AND WILD and DALE HRABY ET AL

Decision of the Manitoba Labour Board delivered December 11, 1985.

Pursuant to the provisions of The Payment of Wages Act, the Director of Employment Standards had ordered that the employer pay wages, overtime wages and holiday pay in relation to some 80 employees of the employer in an amount exceeding $85,000.

As a result of objection taken by the employer to the order, the matter was referred to the Board for determination.

At the hearing, counsel for the employer raised several points of issue, namely:

1. That the cases of those employees who were absent from the hearing before the Board should be dismissed as there was no evidence before the Board regarding the work they

performed or when such work was performed, as would be required pursuant to The Construction Industry Wages Act.

2. That the information submitted by the Director of Employment Standards to the Board was not properly before it. It could only be adduced in evidence by a complainant/employee and that such employee must be available for cross-examination. Therefore, if the employee did not appear and give his evidence, the Board must dismiss the claim of each such employee.

3. That as complaints arise out of the provisions of The Construction Industry Wages Act, and regulations thereunder, Section 14(2) of such Act (as it read prior to its 1985 amendment) provided that a complaint must be filed within 30 days after receiving the first pay at the lower rate. It was the contention of counsel that there was no evidence of such filing.

4. That the complaint must be in writing to the Minister as defined in The Construction Industry Wages Act, and not to the Director of Employment Standards.

5. That each employee's case must be treated separately and distinctly and that in effect the onus was on each employee to establish that the work performed fell within the parameters of the Construction Industry Wages Legislation and that the conditions precedent set out in said legislation have been met.

After hearing submissions on the various issues raised, the Board decided that it did not need to hear evidence from each of the employees affected by the Director's order and that it would decide the matter before it on the basis of the material filed and arguments heard.

In dealing first with Section 14 of The Construction Industry Wages Act, the Board did not take a restrictive approach in its interpretation of Section 14(2) of the Act requiring a complaint to be made within 30 days of receiving pay at a lower rate, because in its view such an approach would be inconsistent with the provisions of Secton 14(1). Further, the Legislature could not be deemed to have intended to reward anyone for disobeying the law or placing an employee at risk of continued employment by reason of making a complaint against his employer. The Board was of the view that the Legislature had enacted Section 14(4) of The Construction Industry Wages Act to avoid any restrictive interpretation of Section 14(2) relative to recovery of wages by an employee in the building construction industry.

The Board then dealt with Section 8(3) of The Payment of Wages Act, noting that pursuant to its provisions, the Director of Employment Standards may of his own accord or on receipt of a

complaint, proceed to determine whether an employer has failed to pay wages due pursuant to the legislation in question. The Board noted that in this particular case, the Director carried out an audit of the employer's records of his own accord as he was authorized to do pursuant to the provisions of the Act. The Board reached the conclusion that Section 14(4) of The Construction Industry Wages Act, by providing that The Payment of Wages Act applies to the recovery of wages, thus meant that while an individual employee in the construction industry must meet the requirements set out in 14(2) of The Construction Industry Wages Act, The Payment of Wages Act, and in particular Section 8(3) thereof, applied to the recovery of wages in the construction industry by giving the Director the authority to conduct an investigation of his own accord and thereby make an order for the payment of wages.

The Board also dealt with the procedural issue relating to whether it could rely on information submitted to it by the Director. The Board considered the provisions of Section 9(2), 9(3) and 9(4) of The Payment of Wages Act and held that absent any evidence to contradict or vary the information received, the Board had authority to rely on the information received from the Director as contemplated by Section 9(3) and 9(4) of the Act. The mere fact that the Board's "Notice of Hearing" forms urged employees to appear and give evidence did not preclude the Board from dealing with the case if an employee did not appear at the hearing. The Board further noted that in situations wherein an order of the Director arose fom a payroll audit, an initial onus is placed on the employer to dispute the inspection which was carried out relative to the information furnished to the Board from the employer's records.

The Board also considered its decision in this case in light of the decision of the Manitoba Court of Appeal in Central Canadian Structures v. Director of Employment Standards (1984), 4 W.W.R. 182, which arose as well from circumstances wherein an investigation was initiated by the Director of Employment Standards of his own accord pursuant to Section 8(3) of The Payment of Wages Act,

In view of all of the above considerations, the Board confirmed the order of the Director against the employer and ordered the employer to pay the wages due to the employees.

It is to be noted that subsequent to the Board's decision, an application was made by the employer to the Court of Appeal seeking leave to appeal the Board's decision on several issues. Leave to appeal was granted by the Court of Appeal, the hearing to come on before the Court in the Fall of 1986.

SECTION VI

COURT ACTIVITY

SUMMARY NO. 1:

METROPOLITAN STORES (MTS) LTD. vs. MANITOBA FOOD AND COMMERCIAL WORKERS LOCAL 832 and MANITOBA LABOUR BOARD — Manitoba Court of Queen's Bench

Reported 36 Manitoba Reports (2d) 152; Manitoba Court of Appeal, Reported 37 Manitoba Reports (2d) 180-81.

The Respondent Union was certified as bargaining agent for a unit of employees of the Applicant Employer. No agreement was reached between the parties as to a Collective Agreement and eventually the Union applied to have the Board settle the terms of the First Collective Agreement pursuant to Section 75.1 of The Labour Relations Act. Accordingly, a date was set for the hearing before the Manitoba Labour Board.

Prior to the hearing date before the Board, the employer filed an Originating Notice of Motion in Queen's Bench challenging the constitutional validity under the Canadian Charter of Rights and Freedoms of certain sections of The Labour Relations Act, including Section 75.1 and further requested a stay of the Board's proceedings pending the outcome of its challenge. The request by the employer that the Board stay its own proceedings pending the court challenge was denied by the Board.

In denying the application for a stay of the Board's proceedings, the Court of Queen's Bench rejected the employer's argument that the granting of a stay was necessary to maintain the status quo between the parties until the constitutional challenge could be dealt with. Rather the Court considered that the entire notice of maintaining a status quo in a high turnover industry, as was the case here, to be fanciful. The Court pointed to such factors as the high turnover rate, the lack of union tradition in the unit and the strong possibility of the case going up to the Supreme Court of Canada to show that the status quo could not be frozen and that attempts to do so would prejudice the Union. The Court thus rejected the employer's argument of prejudice and concluded that the granting of a stay would invite further such applications, thus rendering the legislation in question inoperative for a two to three year period where the status quo could not be maintained. Thus the balance of convenience favoured proceeding under the legislation until it was to be determined by the Courts to be invalid.

On appeal by the employer from the decision of Queen's Bench, the Court of Appeal noted that subsequent to the refusal of a stay by the Queen's Bench and the filing of the Notice of

Appeal, a peremptory hearing date on the merits had been set but then postponed as a result of the intervention by the Canadian Labour Congress in the case, and thus the constitutional challenge likely would not be heard until after the first contract had been settled. The Court, having regard to the serious constitutional challenge raised by the employer, the new constitutional challenges brought and the delay caused by the C.L.C. intervention (which were not before the Queen's Bench), was of the view that these additional considerations allowed the court to exercise a fresh discretion as opposed to reviewing the Motions Judges' discretionary order. The Court granted the stay of proceedings before the Board, stating that it would be unwise to permit the Board to impose a new first contract only to subsequently find the legislation being set aside as contrary to the Charter.

It should be noted that leave to appeal the decision of the Manitoba Court of Appeal was granted to the Attorney General of Manitoba by the Supreme Court of Canada and that the decision of the Supreme Court is still pending pursuant to the appeal argued before it.

SUMMARY NO. 2:

WESTFAIR FOODS LTD. and THE MANITOBA LABOUR BOARD, RETAIL, WHOLESALE AND DEPARTMENT STORE UNION LOCAL 469 AND A GROUP OF OBJECTING EMPLOYEES

Manitoba Court of Queen's Bench — Judgment delivered December 18, 1985.

The Respondent Union was certified as bargaining agent for a unit of employees of the Applicant employer.

The employer subsequently brought Originating Notice of Motion in the Court of Queen's Bench to quash the Certification Order by the Board on the grounds that the Board acted in absence or excess of jurisdiction in relying on facts not adduced before it in evidence, thereby denying natural justice to the parties; and on the further ground that the Board erred in law in its interpretation of an appropriate bargaining unit as provided in Section 29(1) of The Labour Relations Act (as it read prior to the 1985 amendments). Furthermore, a group of employees opposed to the certification further attacked the Board's Order on the grounds that the Board's practice and procedures in dealing with the objecting employees relative to the certification application were contrary to the provisions of Section 31 of the pre-1985 Labour Relations Act and further contrary to the rules of natural justice.

In dismissing the applications by both the employer and the objecting employees, the Court held that the Board did not go outside the evidence before it prior to reaching its determination as to the question of an appropriate bargaining

unit. The Court at the same time offered comment by way of advice to administrative tribunals generally as to the propriety of offering analogies and other general comments. In dealing with the second ground of attack by the employer, the Court held on the basis of the legislation that the Board was bound to do no more than to choose an appropriate bargaining unit for collective bargaining purposes, notwithstanding circumstances where both the Union and the employer had both proposed other groupings which in their view were more appropriate for collective bargaining purposes.

With respect to the arguments raised by the objecting employees, the Court reviewed the forms used by the Board, as prescribed by regulation, to be completed by objecting employees in certification proceedings, together with the accompanying notices, which the objecting employees considered to be biased and intimidating to them. The Court held that it did not take the same view of the rules or of the notices, and therefore did not find them objectionable as being contrary to law or natural justice, nor intimidating to the employees.

In dealing by way of obiter comment with the complaints of the Applicants regarding the review hearing conducted by the Board subsequent to its Certification Order, the Court commented that it would be inappropriate for the same panel of the Board to conduct a review relating to arguments concerning natural justice, but that a different panel ought to be selected for such purposes.

It is notable that prior to the hearing and decision of the Court of Queen's Bench on the merits, the Applicant employer had by separate Motion sought a stay of the Board's certificate pending a determination of the merits of its Originating Notice. The presiding Motions Court Judge dismissed the application for a stay of the certificate, applying in his decision the three-fold test set out by the Ontario Divisional Court in 1979 in Haldimand-Norfolk Regional Health Unit vs. Ontario Nurses' Association, which in turn had been endorsed in a more recent decision of the Queen's Bench in Daciuk and Stevens and the Manitoba Labour Board et al.

SUMMARY NO. 3:

DACIUK AND STEVENS ET AL and THE MANITOBA LABOUR BOARD, MANITOBA FOOD AND COMMERCIAL WORKERS UNION LOCAL 832 ET AL

Manitoba Court of Queen's Bench — Judgment delivered June 25, 1985.

Pursuant to Section 75.1 of The Labour Relations Act, the Board was to convene a hearing to settle the terms of a first collective agreement between the Respondent Union and the employer. An application for a stay of proceedings was brought by objecting employees of the bargaining unit, seeking

to halt the first contract proceedings before the Board pending the hearing of a Motion to quash the Respondent Union's certification as bargaining agent for employees of Eaton's in Brandon. The Court, citing the decision of the Ontario Divisional Court in Haldimand-Norfolk Regional Health Unit v. Ontario Nurses' Association et al, held that for the Applicants to succeed they must:

1. satisfy the Court that there was a prima facie case or at least an arguable case on the merits of the main motion respecting the invalidity of the Board's Certification Order;

2. establish that they will be prejudiced if no stay is granted and that there will be no prejudice to the Respondent Union by a stay that cannot be compensated in damage;

3. establish that the balance of convenience favours a stay.

In light of these principles, and after examination of the material before the Court and the submissions presented by counsel, the Court could find no evidentiary basis for prejudice to the Applicants whereas the lack of a first agreement would leave employees without the benefits and protection that a collective agreement normally provide, including a grievance arbitration process. The Court therefore concluded that on the balance of convenience a stay of proceedings would cause more inconvenience to the Respondent Union than to the Applicants, noting further that delay in the process of having a collective agreement put in place would work to the disadvantage of the Respondent Union and would create the real possibility of an irreparable harm to the Respondent Union and its members.

Accordingly, the application for a stay of proceedings of the Board was dismissed.

SECTION VII

STATISTICAL TABLES

The following statistical tables outline the activities of the Board during the period from April 1st, 1985 to March 31st, 1986.

TABLES

1. Total applications and referrals pending, received and disposed of during period (includes Labour Relations Act matters, Employment Standards and Workplace, Safety and Health Act related referrals).

2. Total number of applications pending, received and disposed of pursuant to The Labour Relations Act.

3. Total number of Certificates issued and number of employees affected.

4. Results of Representative Votes evaluated during period.

5. Total number of matters dealt with respecting the expedited arbitration process.

6. Total number of referrals pending, received and disposed of pursuant to Sections 32 and 35 of The Employment Standards Act.

7. Total number of referrals pursuant to Section 8 of The Payment of Wages Act.

8. Total number of referrals respecting Plant Vacation Shutdown.

9. Total number of referrals respecting The Workplace, Safety and Health Act.

10. Referral for First Collective imposition for the period February 1st, 1982 to March 31st, 1986.

TABLE 1

TOTAL NUMBER OF APPLICATIONS FILED WITH
THE MANITOBA LABOUR BOARD

APRIL 1st, 1985 - MARCH 31st, 1986

UNDER THE LABOUR RELATIONS ACT	-	388
UNDER THE EMPLOYMENT STANDARDS ACT	-	347
UNDER THE PAYMENT OF WAGES ACT	-	423
UNDER THE VACATIONS WITH PAY ACT	-	2
UNDER THE WORKPLACE SAFETY & HEALTH ACT	-	8
		1168

TOTAL NUMBER OF APPLICATIONS DISPOSED OF BY
THE MANITOBA LABOUR BOARD

APRIL 1st, 1985 - MARCH 31st, 1986

UNDER THE LABOUR RELATIONS ACT	-	388
UNDER THE EMPLOYMENT STANDARDS ACT	-	327
UNDER THE PAYMENT OF WAGES ACT	-	366
UNDER THE VACATIONS WITH PAY ACT	-	3
UNDER THE WORKPLACE SAFETY & HEALTH ACT	-	7
		1091

TABLE 2

STATISTICS RELATING TO THE ADMINISTRATION OF THE LABOUR RELATIONS ACT BY THE MANITOBA LABOUR BOARD

APRIL 1st, 1985 - MARCH 31st, 1986

TYPE OF CASE	Cases Carried Over	Cases Filed	TOTAL	Disposition of Cases			Number of Cases Disposed of	Number Cases Pending
				Granted	Dismissed	Withdrawn		
Application for Certification	17	65	82	55	9	7	71	11
Application for Revocation	3	10	13	5	4	2	11	2
Application for Termination of Bargaining Rights	2	-	2	2	-	-	2	-
Application for Amended Certificate	5	16	21	19	-	1	20	1
Application re: Unfair Labour Practice	9	33	42	1	9	24	34	8
Application pursuant to Section 16[1]	2	15	17	-	5	7	12	5
Application for Board Ruling	4	12	16	7	-	4	11	5
Application pursuant to Section 75.1[2]	1	6	7	5	-	1	6	1
Application pursuant to Section 10(1)[3]	-	4	4	4	-	-	4	-
Application pursuant to Section 10(3)[4]	-	2	2	2	-	-	2	-
Application for Reconsideration	6	25	31	5	20	1	26	5
Application for Successor Rights	-	3	3	1	-	1	2	1
Application pursuant to Section 68[5]	-	2	2	1	-	2	2	-
Application pursuant to Section 17[6]	1	2	3	1	-	1	2	1
Application for Consent to Prosecute	-	1	1	-	1	-	1	-
Application pursuant to Section 57[7]	2	-	2	1	-	1	2	-
Application pursuant to Section 103(5)[8]	1	21	22	4	16	2	22	-
Referral for Expedited Arbitration	1	171	172	N/A	N/A	N/A	158	14
TOTALS	54	388	442	112	65	54	388	54

1 Duty of Fair Representation.

2 First Collective Agreement.

3 When an application for certification is filed with the Board, changes in conditions of employment cannot be made without the Board's consent until the application is disposed of.

4 Within the first 90 days following certification of a union as a bargaining agent, strikes and lockouts are prohibited, and changes in conditions of employment cannot be made without the consent of the bargaining agent. Applications under this sub-section are for an extension of this period of up to 90 days.

5 Re: Religious Objector.

6 Re: Access Agreement.

7 Failure to bargain collectively after notice given by other party. (Old Act)

8 Request for the Board to Appoint Arbitrators.

TABLE 3

STATISTICS RELATING TO THE ADMINISTRATION OF THE LABOUR RELATIONS ACT
RESPECTING CERTIFICATES ISSUED

APRIL 1st, 1985 - MARCH 31st, 1986

TYPE OF CERTIFICATE ISSUES	NUMBER OF CERTIFICATES ISSUED	NUMBER OF EMPLOYEES AFFECTED
NEW CERTIFICATES	54	2,164
DISPLACEMENT CERTIFICATES	1	40
TOTAL	55	2,204

TABLE 4

STATISTICS RELATING TO THE ADMINISTRATION OF THE LABOUR RELATIONS ACT
RESPECTING REPRESENTATION VOTES

APRIL 1st, 1985 - MARCH 31st, 1986

TYPE OF APPLICATION INVOLVING VOTE	Number of Votes Conducted	Number of Employees Affected by Votes		Applications GRANTED After Vote	Applications DISMISSED After Vote	Outcome Pending
Certifications	10	1332	N/A	7	3	-
Pre-Hearing (Certification)	1	747	Number of Pre-Hearing Votes Counted 1	1	-	-
Revocation	1	18	N/A	-	1	-
Pre-Hearing (Revocation)	-	-	Number of Pre-Hearing Votes Counted -	-	-	-
Termination of Bargaining Rights	2	19	N/A	2	-	-

TABLE 5

STATISTICS RELATING TO THE ADMINISTRATION OF THE LABOUR RELATIONS ACT
RESPECTING REFERRALS FOR EXPEDITED ARBITRATION

APRIL 1st, 1985 - MARCH 31st, 1986

Cases Carried Over	Number of Referrals Filed	TOTAL	Number of Cases Mediator Appointed	Disposition of Cases			Number of Cases Disposed of	Number of Cases Pending
				Settled by Mediation	Settled by Parties	Settled by Arbitration		
1	171	172	149	84	45	29	158	14

TABLE 6

STATISTICS RELATING TO THE ADMINISTRATION OF THE EMPLOYMENT STANDARDS ACT

APRIL 1st, 1985 - MARCH 31st, 1986

TYPE OF CASE	Cases Carried Over	Number of Applications Filed	Total	Rulings Made	Applications Withdrawn	Number of Cases Disposed of	Number of Cases Pending
Application pursuant to Section 32	16	271	287	253	10	263	24
Application pursuant to Section 35	9	76	85	57	7	64	21

TABLE 7

STATISTICS RELATING TO THE ADMINISTRATION OF THE PAYMENT OF WAGES ACT

APRIL 1st, 1985 - MARCH 31st, 1986

TYPE OF CASE	Cases Carried Over	Number of Applications Filed	Total	Orders Issued by the Board	Applications Withdrawn	Cases Disposed of	Cases Pending
Application pursuant to Section 8	93	423	516	305	61	366	150

TABLE 8

STATISTICS RELATING TO THE ADMINISTRATION OF THE VACATIONS WITH PAY ACT

APRIL 1st, 1985 - MARCH 31st, 1986

TYPE OF CASE	Cases Carried Over	Number of Applications Filed	Total	Orders Issued by the Board	Claims Dismissed	Claims Withdrawn	Number of Cases Disposed of	Number of Cases Pending
Plant Vacation Shutdown	1	2	3	3	-	-	3	-

TABLE 9

STATISTICS RELATING TO THE ADMINISTRATION OF THE
WORKPLACE SAFETY & HEALTH ACT
BY THE MANITOBA LABOUR BOARD

APRIL 1st, 1985 - MARCH 31st, 1986

TYPE OF CASE	Cases Carried Over	Number of Applications Filed	Total	Rulings Made	Applications Withdrawn	Number of Cases Disposed of	Number of Cases Pending
Application for Remedy of Alleged Discriminatory Actions	-	5	5	1	3	4	1
Appeal from Directors Order	2	2	4	1	2	3	1
Request for Board Ruling Re: Workplace, Safety and Health Committee	-	1	1	-	1	-	-

TABLE 10

REVIEW OF CASES - FIRST AGREEMENT LEGISLATION

FEBRUARY 1st, 1982 to MARCH 31st, 1986

	UNION	EMPLOYER	DATE OF APPLICATION	OUTCOME OF APPLICATION	CURRENT STATUS
1.	Canadian Association of Industrial, Mechanical and Allied Workers.	United Fibre Bond	July 8, 1982	Hearing held. Board refused Application.	Certification revoked August 25, 1982.
2.	Graphic Arts International Union, Local 516	Screen Print Ltd.	July 27, 1982	Parties voluntarily entered into Collective Agreement. Expiry date: October 14, 1983.	Certification revoked June 24, 1983.
3.	Manitoba Food & Commercial Workers, Local 832	Blackwoods Beverages (Dauphin)	August 3, 1982	Application withdrawn May, 1983.	Certification revoked May 27, 1983.
4.	Manitoba Food & Commercial Workers, Local 832	Blackwoods Beverages (Brandon)	December 29, 1982	Parties voluntarily entered into a Collective Agreement. Expiry date: February 23, 1984	Parties in negotiations for Fourth Agreement.
5.	Canadian Union of Public Employees, Local 5143	Care-A-Lot Day Care Centre Ltd.	February 7, 1983	Board imposed first Collective Agreement. Expiry date: May 15, 1984	Certification revoked January 7, 1986.
6.	Amalgamated Clothing and Textile Workers, Local 459	Freed and Freed/Cambrian Clothing Ltd.	March 22, 1983	Parties voluntarily entered into a Collective Agreement. Expiry date: November 30, 1984	Second Agreement concluded. Expiry Date: December 14, 1987. The Manitoba Labour Board has dismissed an application for decertification in June, 1985.
7.	Canadian Paperworkers Union, Local 830	Instabox (Winnipeg) Ltd.	May 26, 1983	Board Imposed first Collective Agreement. Expiry date: July 20, 1984.	Second Agreement concluded with Conciliation Services. Expiry date: July 20, 1986.

TABLE 10

	UNION	EMPLOYER	DATE OF APPLICATION	OUTCOME OF APPLICATION	CURRENT STATUS
8.	Manitoba Food & Commercial Workers, Local 832	The German Society of Winnipeg	November 4, 1983	Board imposed first Collective Agreement. Expiry date: February 2, 1985	Certification revoked March 14, 1986.
9.	International Union of Operating Engineers, Local 827	Winnipeg Regional Housing Authority	December 19, 1983	Parties voluntarily entered into a Collective Agreement. Expiry date: December 31, 1984	Second agreement concluded. Expiry date: December 31, 1987.
10.	United Brotherhood of Carpenters & Joiners of America, Local 343	Alpine Roofing and Building Contractors, Ltd.	May 22, 1984	Board imposed first Collective Agreement. Expiry date: July 12, 1985.	Parties are not in negotiation for second agreement as there are no employees employed under the company name of Alpine Roofing and Building Contractors Ltd.
11.	United Food & Commercial Workers International Union Local 111	Premier West Peat Moss Limited	July 31, 1984	Board imposed first Collective Agreement. Expiry date: September 26, 1985.	Second agreement concluded. Expiry date: September 26, 1986.
12.	Manitoba Food & Commercial Workers, Local 832	R.H.K. Enterprises Operating name: BUDGET RENT-A-CAR	September 26, 1984	Parties voluntarily entered into a Collective Agreement. Expiry date: October 31, 1986	First Contract still in effect.
13.	United Food & Commercial Workers, International Union Local 111	Supreme Racquet Courts	October 25, 1984	Board imposed first Collective Agreement. Expiry date: December 20, 1985	Parties are not in negotiations for second agreement. In March, 1986, the Board received an application for revocation. The Union is not opposing the application.
14.	Graphic Communications Inernational Union, Local 516	R.L. Polk & Co. Ltd. Operating name: HENDERSON DIRECTORIES	March 14, 1985	Board imposed first Collective Agreement. Expiry date: May 9, 1986.	First Contract still in effect.

TABLE 10

UNION	EMPLOYER	DATE OF APPLICATION	OUTCOME OF APPLICATION	CURRENT STATUS
15. Manitoba Food & Commercial Workers, Local 832	The T. Eaton Company Limited (Brandon)	May 22, 1985	Board imposed first Collective Agreement. Expiry Date: July 23, 1986.	In July of 1985, the Company applied to the Board for review and reconsideration of the first agreement. In August of 1985, the Board declined to review the first agreement. The parties mutually agreed to amend the agreement imposed by the Board. These revisions included the amendment to the clauses regarding job postings, seniority, hours of work, overtime and wages. Expiry date: July 22, 1987.
16. United Food & Commercial Workers International Union, Local 111.	Ameseo (1967) Ltd.	May 23, 1985	Board imposed first Collective Agreement. Expiry date: July 23, 1986.	First Contract still in effect. In August, 1985, the Company applied to the Board for review and reconsideration of imposed first agreement. In September, 1985, the Board declined to review the imposed first agreement. Notice of Motion was filed in the Court of Queen's Bench to stay operation of imposed collective agreement.
17. United Food & Commercial Workers International Union, Local 111.	Smitty's - Your Family Restaurant	May 27, 1985	Board imposed first Collective Agreement. Expiry date: July 26, 1986.	First Contract still in effect. In August, 1985, the Union applied to the Board for review and reconsideration of imposed first agreement. In September, 1985, the Board declined to review the imposed first agreement.
18. Manitoba Food & Commercial Workers, Local 832	Metropolitan Stores (MTS) Ltd.	July 2, 1985	Pending	Court of Appeal stayed First Collective Agreement proceedings before the Board. Leave granted by Supreme Court of Canada to hear appeal of Decision of Court of Appeal.
19. Graphic Communications International Union	Image Graphics	August 23, 1985	Board imposed first Collective Agreement. Expiry date: October 18, 1986.	First contract still in effect.

TABLE 10

UNION	EMPLOYER	DATE OF APPLICATION	OUTCOME OF APPLICATION	CURRENT STATUS
20. The Hotel & Restaurant Employees & Bartenders International Union, Local 206	Charleswood Legion Branch #100	September 20, 1985	Parties voluntarily entered into a Collective Agreement. Expiry date: March 31, 1986.	Parties to negotiate for second agreement.